

REMARKS

In response to the rejections under 35 USC §§112 and 102(b), claims 1-19 are herewith cancelled and replaced by claims 20-31. Upon entry of this amendment, claims 20-31 will be pending.

Claim 28 is directed to footwear having the following elements:

(a) a sole comprising a unitary outsole and no midsole, the outsole being of a wear resistant material having a resistance to compression, the outsole further having a bottom, an upper surface, a heel section having medial and lateral regions, an arch section having medial and lateral regions, and a forefoot section having a first region for supporting the first, second, third, fourth and fifth metatarsal heads, associated proximal phalanges and metatarsal phalangeal joints, and the metatarsal neck associated with the fifth metatarsal head, and a second region for supporting at least one of the metatarsal necks associated with the second and third metatarsal heads;

(b) a cavity in the upper surface of the outsole;

(c) an insert in the cavity having a resistance to compression less than the resistance to compression of the outsole; and

(d) the insert being sized and shaped to overlies at least part of the lateral region of the heel section of the outsole, at least part of the lateral region of the arch section of the outsole, and the first region of the forefoot section of the outsole for attenuating the shock of impact in these regions during running and walking, and the insert being sized and shaped not to overlies at least part of the medial region of the arch section of the outsole and the second region of the forefoot section of the outsole whereby the outsole

provides firmer support in these regions during running and walking.

In accordance with the present invention, the claimed footwear has a **unitary** outsole, **no midsole**, and a shock-attenuating **insert** received in a **cavity** in the unitary outsole. One embodiment of such footwear is shown in Figs. 7-10 of the pending application, where the unitary outsole is indicated at 200, the insert at 214 and the cavity at 210. This construction is neither shown nor suggested by the prior art of record, including applicant's own U.S. Nos. 5,787,610 and 5,964,046, and the patents to Steinbrecher, Lelyveld, Fink, Wildman, Morana, Chapnick and Cavanagh relied upon by the examiner.

Claims 21-30 depend from claim 20 and are allowable for the same reasons as claim 20, and because the cited art is devoid of any teaching of additional features recited in these claims.

Claim 31 is similar to claim 20 except that it specifies the "7" shape of the insert and the durometer hardness of the insert and outsole materials. Claim 31 is believed to be a allowable for the same reasons as claim 20, and because of the additional elements recited therein

CONCLUSION

In view of the foregoing, allowance of this application is requested.

Respectfully submitted,

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